

Remarks

The following is a response to the Office Action dated May 6, 2003.

Per the above amendment, the dependency of objected to claim 24 has been amended to depend from claim 22.

In item 2 of the Office Action, the pending claims were rejected under 35 U.S.C. 112, first paragraph.

In response to this rejection, appropriate amendments have been added to the specification to clearly show that it is the distal portion of collar 4, more specifically the upper surface 4u that abuts the base surface 28b of hub 28, as well as the latching by latching member 20 against shoulder 33 of the hub that maintains collar 4 in a fixed relationship relative to hub 28 longitudinally. The appropriate designations have been added in red to the figures, namely Figs. 1, 2, 4, 7, 8 and 11. Upon approval by the examiner, the noted figures will be corrected as shown in red.

Note that no new matter has been added to the specification of the instant application, insofar as the instant application incorporates by reference U.S. patents 6,334,857 and 6,524,281. Fig. 2 of the '857 clearly shows a vial 16 having at its distal end a hub 10 with a bottom surface 10a. This bottom surface of the vial hub is represented by designation 28b of amended Figs. 7 and 8. See also the '281 patent where it is disclosed the following: "As is well known, a needle hub 20 covers the proximal end of needle 26. Hub 20 has a base 20a that covers and seals neck 22 of vial 16." (Column 3, lines 19-21)

Thus, the disclosure of the instant specification is believed to be enabling. This is moreover apparent in view of the amendment to claim 1 in response to the rejection of the pending claims under 35 U.S.C. 102(b) as being anticipated by Nelson et al. U.S. patent 4,659,330. Accordingly, applicant respectfully submits that the disclosure of the

instant application is indeed enabling and that the rejection of the pending claims under 35 U.S.C. 112, first paragraph, should be withdrawn.

Amended claim 1 defines the hub of the vial to have a shoulder and a base, and the collar to have a distal end. The latch member that extends from the neck member, which in turn extends from the distal end of the collar, coacts with the shoulder of the hub while the distal end of the collar coacts with the base of the hub, when the collar is moved so that its distal end is positioned adjacent the hub. This is clearly shown in Figs. 7 and 8 in which latch member 20 is shown to have latched onto shoulder 33 of hub 28 while collar 4, and more specifically its distal end, is positioned adjacent the lower portion of hub 28, so that once latch member latches onto shoulder 33 of hub 28, collar 4 is prevented from moving longitudinally away from hub 28.

In claim 22, the safety device as shown in Figs. 1-5 is defined to be configured such that when its collar is placed about vial and moved to be adjacent to one end of the vial, the latch member at the neck of the device would latch on to another end of the vial.

Nelson '330 does not come close to rendering the claimed invention obvious, let alone anticipating the claimed invention. In particular, Nelson '330 discloses four different embodiments. These embodiments are shown in Figs. 1-2 (the simplest embodiment), Figs. 3-8, Figs. 9-11 and Figs. 12-15. The Figs. 1-2 embodiment shows a simple cap 10 having a funnel shaped collar 12 with an extension 14. To use, one has to hold extension 14 for moving cap 10 over needle 20. The second embodiment, shown in Figs. 3-8, has a spring clip 30 that clips onto the syringe barrel 22. To cover needle 20, the spring clip 30 is moved toward the plunger end of the syringe barrel so that eventually cap 24 is press fit at 26 over needle 20. To remove cap 24 from needle 20, the reverse process takes place, i.e., spring clip 30 is moved forward toward needle 20. The third embodiment, as shown by Figs. 9-11, is similar to the second embodiment. The only difference for the third embodiment is the use of a collar 36 that

stays on syringe barrel 22, even after cap 24 has been slidably removed from needle 20 and rotated, at hinge 34, away from needle 20. The last embodiment, shown in Figs. 12-15, discloses a sleeve 46 that is slidable from the position shown in Fig. 12 to the position shown in Fig. 14, along the barrel of the syringe, so that cap 40 may be removed from needle 42.

Nelson et al. therefore fail to suggest, let alone disclose, any collar that has a neck extending therefrom to which a latch member is extended for coacting with the vial hub to maintain the collar from being removed from the vial, as defined in claim 1. Nor does Nelson '330 disclose any thing similar to the structure of the safety device defined in independent claims 22 and 25.

In view of the foregoing, applicant respectfully submits that the instant invention is patentable over the prior art. Accordingly, the examiner is respectfully requested to reconsidered the application and allow the pending claims at an early date.

Respectfully submitted,



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